

WILLIAM A. MUNDELL
CHAIRMAN
JIM IRVIN
COMMISSIONER
MARC SPITZER
COMMISSIONER



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BRIAN C. McNEIL
EXECUTIVE SECRETARY

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ARIZONA CORPORATION COMMISSION
OPEN MEETING ITEM

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DATE: March 14, 2001

Arizona Corporation Commission
DOCKETED
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DOCKET NO: T-03296A-96-0590

MAR 14 2001

TO ALL PARTIES:

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Enclosed please find the recommendation of Administrative Law Judge Alicia Grantham. The recommendation has been filed in the form of an Order on:

DANCRIS TELECOM, L.L.C.
(RESELLER)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

MARCH 23, 2001

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

MARCH 27, 2001 and MARCH 28, 2001

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250.

[Signature]
BRIAN C. McNEIL
EXECUTIVE SECRETARY

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 WILLIAM A. MUNDELL
CHAIRMAN

3 JIM IRVIN
COMMISSIONER

4 MARC SPITZER
COMMISSIONER

5
6 IN THE MATTER OF THE APPLICATION OF
DANCRI TELECOM, L.L.C. FOR A
7 CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE COMPETITIVE
8 RESOLD INTEREXCHANGE
TELECOMMUNICATIONS SERVICES EXCEPT
9 LOCAL EXCHANGE SERVICES

DOCKET NO. T-03296A-96-0590

DECISION NO. _____

ORDER

10 Open Meeting
March 27 and 28, 2001
11 Phoenix, Arizona

12 **BY THE COMMISSION:**

13 Having considered the entire record herein and being fully advised in the premises, the
14 Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

15 **FINDINGS OF FACT**

16 1. On December 2, 1996 DanCris Telecom, L.L.C." or "Applicant") filed with the
17 Commission an application for a Certificate of Convenience and Necessity ("Certificate") to provide
18 competitive resold interexchange telecommunications services, except local exchange services within
19 the State of Arizona.

20 2. In Decision No. 58926 (December 22, 1994), the Commission found that resold
21 telecommunications providers ("resellers") were public service corporations subject to the
22 jurisdiction of the Commission.

23 3. Applicant is an Arizona limited liability company authorized to do business in
24 Arizona.

25 4. Applicant is a switchless reseller, which purchases telecommunications services from
26 various telecommunications service providers.

27 5. On February 18, 1997, Applicant filed Affidavits of Publication indicating compliance
28 with the Commission's notice requirements.

1 6. On September 8, 2000, the Commission's Utilities Division Staff ("Staff") filed its
2 Staff Report in this matter.

3 7. Staff stated that the Applicant provided its unaudited financial statements for the year
4 ending December 31, 1999. These financial statements listed assets of \$2.3 million, negative
5 shareholders' equity of \$614,992, and a net income of \$134,479 on revenues of \$10.1 million. Based
6 on the foregoing, Staff believes that Applicant lacks adequate financial resources to be allowed to
7 charge customers any prepayments, advances or deposits without establishing an escrow account or
8 posting a surety bond. Since Applicant does not appear to have sufficient financial resources, it has
9 docketed proof or a surety bond in the amount of \$5,000, which shall be in effect for a minimum of
10 one year and will approximate the total amount of any prepayments, advances, or deposits that the
11 Applicant collects from its customers.

12 8. The Staff Report stated that Applicant has no market power and the reasonableness of
13 its rates would be evaluated in a market with numerous competitors.

14 9. In its Report, Staff recommended the following:

15 (a) Applicant should be ordered to comply with all Commission rules, orders and
16 other requirements relevant to the provision of intrastate telecommunications services;

17 (b) Applicant should be ordered to maintain its accounts and records as required
18 by the Commission;

19 (c) Applicant should be ordered to file with the Commission all financial and other
20 reports that the Commission may require, and in a form and at such times as the
Commission may designate;

21 (d) Applicant should be ordered to maintain on file with the Commission all
22 current tariffs and rates, and any service standards that the Commission may require;

23 (e) Applicant should be ordered to comply with the Commission's rules and
24 modify its tariffs to conform to these rules if it is determined that there is a conflict
between the Applicant's tariffs and the Commission's rules;

25 (f) Applicant should be ordered to cooperate with Commission investigations of
26 customer complaints;

27 (g) Applicant should be ordered to participate in and contribute to a universal
28 service fund, as required by the Commission;

1 (h) Applicant should be ordered to notify the Commission immediately upon
2 changes to the Applicant's address or telephone number;

3 (i) Approval of the \$5,000 surety bond filed by Applicant to cover the
4 approximate total amount of any prepayments, advances and deposits that Applicant
5 will collect from its customers;

6 (j) After one year of operation under the Certificate granted by the Commission,
7 the Applicant should be allowed to file a request for cancellation of its established
8 surety bond, and that such request be accompanied by information demonstrating the
9 Applicant's financial viability. Upon receipt of such filing and after Staff review, Staff
10 would forward its recommendation to the Commission for a Decision;

11 (k) Applicant's intrastate interexchange service offerings should be classified as
12 competitive pursuant to A.A.C. R14-2-1108;

13 (l) The rates proposed by the Applicant in its most recently filed tariffs should be
14 approved on an interim basis. The maximum rates for these services should be the
15 maximum rates proposed by the Applicant in its proposed tariffs. The minimum rates
16 for the Applicant's competitive services should be the Applicant's total service long
17 run incremental costs of providing those services as set forth in A.A.C. R14-2-1109;
18 and

19 (m) In the event that the Applicant states only one rate in its proposed tariff for a
20 competitive service, the rate stated should be the effective (actual) price to be charged
21 for the service as well as the service's maximum rate.

22 10. On August 29, 2000, the Court of Appeals, Division One ("Court") issued its Opinion
23 in US WEST Communications, Inc. v. Arizona Corporation Commission, 1 CA-CV 98-0672, holding
24 that "the Arizona Constitution requires the Commission to determine fair value rate base ("FVRB")
25 for all public service corporations in Arizona prior to setting their rates and charges."

26 11. On October 26, 2000, the Commission filed a Petition for Review to the Arizona
27 Supreme Court. On February 13, 2001, the Commission's Petition was granted. However, at this
28 time, we are going to request FVRB information to insure compliance with the Constitution should
the ultimate decision of the Supreme Court affirm the Court's interpretation of Section 14. We are
also concerned that the cost and complexity of FVRB determinations must not offend the
Telecommunications Act of 1996.

12. No exceptions were filed to the Staff Report, nor did any party request that a hearing
be held.

CONCLUSIONS OF LAW

1
2 1. Applicant is a public service corporation within the meaning of Article XV of the
3 Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

4 2. The Commission has jurisdiction over Applicant and the subject matter of the
5 application.

6 3. Notice of the application was given in accordance with the law.

7 4. Applicant's provision of resold intrastate telecommunications services is in the public
8 interest.

9 5. Applicant is a fit and proper entity to receive a Certificate for providing competitive
10 intrastate telecommunications as a reseller in Arizona.

11 6. Staff's recommendations in Findings of Fact No. 9 are reasonable and should be
12 adopted.

ORDER

13
14 IT IS THEREFORE ORDERED that the application for DanCris Telecom, L.L.C. for a
15 Certificate of Convenience and Necessity for authority to provide competitive resold interexchange
16 telecommunications services, except local exchange services, shall be and the same is hereby granted.

17 IT IS FURTHER ORDERED that DanCris Telecom, L.L.C.'s surety bond in the amount of
18 \$5,000 is hereby approved.

19 IT IS FURTHER ORDERED that DanCris Telecom, L.L.C. shall comply with the Staff
20 recommendations set forth in Findings of Fact No. 9.

21 IT IS FURTHER ORDERED that DanCris Telecom, L.L.C. shall file the following FVRB
22 information within 18 months of the date that it first provides service. The FVRB shall include a
23 dollar amount representing the total revenue for the first twelve months of telecommunications
24 service provided to Arizona customers DanCris Telecom, L.L.C. following certification, adjusted to
25 reflect the maximum rates that DanCris Telecom, L.L.C. requests in its tariff. This adjusted total
26 revenue figure could be calculated as the number of units sold for all services offered times the
27 maximum charge per unit DanCris Telecom, L.L.C. shall also file FVRB information detailing the
28 total actual operating expenses for the first twelve months of telecommunications service provided to

1 Arizona customers DanCris Telecom, L.L.C. following certification. DanCris Telecom, L.L.C. shall
2 also file FVRB information which includes a description and value of all assets, including plant,
3 equipment, and office supplies, to be used to provide telecommunications service to Arizona
4 customers for the first twelve months following DanCris Telecom, L.L.C.'s certification.

5 IT IS FURTHER ORDERED that within 30 days of the effective date of this Decision,
6 DanCris Telecom, L.L.C. shall notify the Compliance Section of the Arizona Corporation
7 Commission of the date that it will begin or has begun providing service to Arizona customers.

8 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

9 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

10
11
12 CHAIRMAN

COMMISSIONER

COMMISSIONER

13
14 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
15 Secretary of the Arizona Corporation Commission, have
16 hereunto set my hand and caused the official seal of the
17 Commission to be affixed at the Capitol, in the City of Phoenix,
18 this ____ day of _____, 2001.

19 BRIAN C. McNEIL
EXECUTIVE SECRETARY

20 DISSENT _____

21 AG:mlj
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28

1 SERVICE LIST FOR: DANCRIS TELECOM, L.L.C.

2
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